

**Statement of the Honorable Fred Upton
Chairman, Committee on Energy & Commerce
May 25, 2011**

Full Committee Markup

H.R. 1939, Enhancing CPSC Authority and Discretion Act of 2011 (ECADA)
(Remarks Prepared for Delivery)

This year our committee has consistently focused on jobs and security – from health care security to energy security – for the American people. Today is no different. We are here to vote on a pair of bills that achieve some of the most fundamental objectives of this committee: keeping Americans safe and healthy while promoting common-sense federal regulations that support job creation.

I'd like to first speak briefly about an issue that has long been the purview of the Energy and Commerce Committee: chemical safety and security.

The Chemical Facility Anti-Terrorism Standards program – or CFATS – has been in place since 2007. It builds coordination between owners and operators of certain high-risk facilities and the Department of Homeland Security to guard against acts of terrorism.

This is a program that works well and deserves the stability of a longer-term reauthorization. I commend Reps. Murphy and Green for introducing this bill.

From national security we will turn our attention to economic security.

Throughout this year, each of our subcommittees has focused on job creation and federal barriers to economic growth. And in the Commerce, Manufacturing, and Trade Subcommittee, we have seen that a well-intentioned law is threatening

serious economic harm. Today, we will vote to restore common sense and discretion to the agency that protects American consumers.

I'd like to thank Chairman Bono Mack for picking up the torch on the issue of CPSIA reform and leading the way both thoughtfully and quickly with H.R. 1939. Chairman Bono Mack has carefully crafted this piece of legislation through regular order. I also want to commend staff for consistently reaching out to the minority staff and meeting on numerous occasions and for making changes to address the concerns raised by those on the other side of the aisle.

Manufacturers, small business owners, and countless others are depending on us to ease the harsh and inflexible mandates of the 2008 CPSIA law.

Despite the rhetoric, I want to assure my colleagues and all of our constituents that H.R. 1939 keeps alive the spirit in which this Committee and the Congress passed the CPSIA. The CPSIA imposed significant new standards – particularly for lead content – and beefed up the CPSC to enforce those safety standards. This bill does not undercut those basic safety gains.

Instead, it removes the rigidity and inflexibility of CPSIA and replaces them with focused Commission discretion without compromising children's safety. Giving a government body more flexibility to do its job by focusing on risk does not undermine safety. We have seen numerous bipartisan bills to address many of these issues because we know all products are not the same, and federal law should not treat them that way.

This bill preserves the current lead content standard, established through CPSIA, and maintains that standard for products for older children. It also keeps the lowest standard of 0.01% intact, applying it to products meant for children where mouthing behavior is most common and even up through age 6.

We also recognize that many outdoor products, like ATVs and bikes, do not pose the same exposure risk as items that are readily and continuously available to children inside the home. To address these product differences, we apply to the outdoor products the same lead limits that the CPSC established for them.

Further, the bill addresses one of the most significant costs threatening businesses, jobs, and consumer prices: third party testing. The Chairman of the CPSC has been reminding us how much safer toys are now than they were a few years back. But those gains are not the result of mandated third-party testing because those requirements have never gone into effect for the toy standards or the lead limits.

How do we know products meet the legal standards? Because manufacturers already test to those standards to ensure they are not breaking the law – they just do it in a more reasonable approach than the methods devised by CPSIA and CPSC. This draft simply codifies this existing and working process.

I urge my colleagues to ignore the demagogues: vote with reason on this issue, and vote for amending the CPSIA.